

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Margarita Davison, individually and as
parent and natural guardian of J.T., a
minor,

Case No. _____
Judge _____

Plaintiff

**NOTICE OF REMOVAL OF
CIVIL ACTION UNDER
28 U.S.C. § 1441**

vs.

Exavir Dwayne Binford, Jr., and the City of
St. Paul,

Defendants.

TO: Honorable Judges of United States District Court for the District of Minnesota.

Defendant City of St. Paul hereby states as follows:

1. That an action has been commenced and is now pending in the district court for the County of Ramsey, State of Minnesota in which Margarita Davison, individually and as parent and natural guardian of J.T., a minor, is Plaintiff and Exavir Dwayne Binford, Jr., and the City of St. Paul are Defendants. On or about January 17, 2024, Plaintiff served a copy of a Summons and Complaint upon the City Clerk of the City of Saint Paul. That a true and correct copy of that Summons for City of Saint Paul and Complaint is attached hereto as Exhibit 1 and is hereby incorporated by this reference. Upon information and belief, Defendant Exavir Binford has not been served with the Summons and Complaint. The Complaint is dated one day ago, January 17, 2024. Binford is currently in custody of the Minnesota Department of Corrections. There is no affidavit of service upon Binford filed on the Ramsey County District Court docket. The

summons for Binford is attached hereto as Exhibit 2. The Ramsey County Civil Cover Sheet is attached hereto as Exhibit 3. A true and correct copy of the Declaration of Sara Lathrop is attached hereto as Exhibit 4 and is hereby incorporated by this reference.

2. The above-referenced action, originally commenced in the Second Judicial District, County of Ramsey, State of Minnesota, is a civil action over which this Court has jurisdiction under the provisions of Title 28 § 1331 of the United States Code, and is one which may be removed to this Court, by petition, pursuant to the provisions of Title 28 § 1441 of the United States Code, in that it is a civil action involving a question of federal law.

3. That this civil action contains allegations that Defendant Exavir Binford, acting under color of state law, deprived Plaintiff's minor child of Fourth Amendment protections against unlawful seizure/excessive force in violation of 42 U.S.C. § 1983, and allegations that the City of St. Paul likewise violated Plaintiff's minor child's rights secured by the U.S. Constitution. That the above-referenced cause of action entitles Defendant City of St. Paul to remove this action to the United States District Court of the District of Minnesota as it is a "Civil Rights Case" as defined by Title 28 § 1443.

4. This Notice is filed with the Court within thirty (30) days after service of the Summons and Complaint upon Defendant City of Saint Paul and the time for filing this Notice under the laws of the United States has not expired.

5. Written notice of removal of this action is hereby given to the Plaintiff.

6. Pursuant to 28 U.S.C. § 1441, this Court has original jurisdiction in this matter. This Court is the district and division embracing the Ramsey County District Court, State of Minnesota.

7. Pursuant to the provisions of 28 U.S.C. § 1446, Defendant City of Saint Paul has filed the Notice of Removal together with a copy of all process, pleadings and orders served upon this Defendant with the United States District Court.

WHEREFORE, Defendant City of Saint Paul prays that the above-captioned action now pending against them in the Second Judicial District, County of Ramsey, State of Minnesota, be removed therefrom to this Court.

Dated: January 18, 2024

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